



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/761,142

01/20/2004

David A. Waldman

3174.1016-001

8777

21005

7590

07/20/2009

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

530 VIRGINIA ROAD

P.O. BOX 9133

CONCORD, MA 01742-9133

EXAMINER

BIBBINS, LATANYA

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

07/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/761,142

Applicant(s)

WALDMAN ET AL.

Examiner

LaTanya Bibbins

Art Unit

2627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36, 38-50 and 52-88 is/are pending in the application.
- 4a) Of the above claim(s) 1-36, 38-48, 64 and 68-85 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49, 50, 52-63, 65-67 and 86-88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In the remarks filed on March 30, 2009, Applicant amended claims 49, 50, 56-62, 66, 67, added claims 87 and 88, and submitted arguments for allowability of pending claims 49, 50, 52-63, 65-67 and 86-88.

Response to Arguments

2. Applicant's arguments with respect to claims 49, 50, 52-63, 65-67 and 86-88 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 112 Second Paragraph

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 49, 50, 52-63, 65-67 and 86-88 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 49 recites "said at least aspherical reflecting surface spanning an azimuthal arc of 360°." It is unclear what is meant by having an aspherical reflecting surface span an azimuthal arc of 360°.

Dependent claims 50, 52-63, 65-67 and 86-88 do not resolve the 35 U.S.C. 112 second paragraph issues of independent claim 49 recited above and are therefore rejected as incorporating the deficiencies of a claim upon which they depend.

Claim Rejections - 35 USC § 112 First Paragraph

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. **Claims 49, 50, 52-63, 65-67 and 86-88 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.**

The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. New or amended claims which introduce elements or limitations which are not supported by the as-filed disclosure violate the written description requirement. See MPEP § 2163 I(B).

Regarding claim 49, in the amendment filed March 30, 2009, claim 49 was amended to include the limitation **"said at least aspherical reflecting surface spanning an azimuthal arc of 360°."** However, the specification does not disclose **an aspherical surface spanning an azimuthal arc of 360°**. Instead, the specification discloses recording azimuthally multiplexed images occupying positions corresponding to azimuthal angles that can be any angle between 0° and 360° (see page 15 lines 9-15 of the specification). Therefore, the claimed limitation **"said at least aspherical reflecting surface spanning an azimuthal arc of 360°"** of amended claim 49 is not supported by the as-filed disclosure, and the written description requirement is violated.

Dependent claims 50, 52-63, 65-67 and 86-88 do not resolve the 35 U.S.C. 112 first paragraph issues of independent claim 49 recited above and are therefore rejected as incorporating the deficiencies of a claim upon which they depend.

Allowable Subject Matter

9. Regarding claims 49, 50, 52-63, 65-67 and 86-88, while a search has been performed for the limitations recited in these claims, no statement will be made in this Office Action regarding the allowability over the prior art due to the 35 USC. 112 first and second paragraph rejections noted above. Examiner will refrain from making a prior art rejection until the intended patentable coverage of the invention is made clear by Applicant.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaTanya Bibbins whose telephone number is (571)270-1125. The examiner can normally be reached on Monday through Friday 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571 272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaTanya Bibbins/
Examiner, Art Unit 2627

/Thang V. Tran/
Primary Examiner, Art Unit 2627